

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LABMD, INC.,)	
)	
PLAINTIFF,)	
)	
v.)	CIVIL ACTION NO.: 1:14-CV-810-
)	WSD
FEDERAL TRADE COMMISSION,)	
)	
DEFENDANT.)	

SECOND SUPPLEMENTAL DECLARATION
OF MICHAEL J. DAUGHERTY

The declarant Michael J. Daugherty states:

1. I am the same Michael J. Daugherty who submitted a declaration in support of the motion for preliminary injunction filed by Plaintiff LabMD, Inc. ("LabMD"), and a supplemental declaration in support of LabMD's Response to Defendant's Motion to Amend the Scheduling Order. I am President and CEO of LabMD and base this declaration on facts known to me. To avoid repetition, I incorporate the statements from my first and second declarations into this supplemental declaration.

2. I am providing this third declaration to describe information that I have assembled to provide further support for LabMD's Fifth Claim for Relief (For Retaliation Against LabMD for Protected First Amendment Speech).

3. On or about April 17, 2014, I learned about a reporting capability offered by a website-related tool, referred to as “Google Analytics,” described at <http://www.google.com/analytics/>. The feature that I learned about allows website owners to determine which “Service Providers” individuals who visit a website are using and then generate reports showing how many individuals who use that specific “Service Provider” have visited a website, when, how often, and what specific web pages these individuals have viewed.

4. On April 23, 2014, I used Google Analytics as a tool for analyzing visits to my website, <http://michaeljdaugherty.com/>, to generate reports about visits to my website by employees of the Federal Trade Commission (“FTC”). I wanted to see if, and if so, to what extent FTC employees monitored my website using FTC computers during the investigation into LabMD and through the enforcement proceedings.

5. On April 23, 2014, I generated Google Analytics reports for the time period of July 1, 2012, to April 23, 2014, for my website that only reflected visits to my website from the following “Service Provider”: “federal trade commission.” For many of those reports, I also identified the specific pages on my website that the FTC employees visited during specific date ranges. I generated separate reports for this time period. A true and correct copy of each report generated on April 23, 2014, is attached to my declaration as Exhibits 3

through 10 and are collectively referred to as the “Google Reports.” I discuss each Google Report in paragraphs 9 through 16 of this Declaration.

6. I focused several searches using Google Analytics on the periods directly preceding or following key dates. The key dates and the reasons I consider these to be key dates are explained below:

(a) **September 10, 2012:** The date on which Matthew Smith, FTC enforcement staff’s paralegal, downloaded from LexisNexis a copy of a September 7, 2012, Atlanta Business Chronicle article entitled “Atlanta Medical Lab Facing Off Against FTC,” in which I am quoted as criticizing the FTC. A copy of Mr. Smith’s LexisNexis printout, which I obtained from the FTC in response to my Freedom of Information Act (“FOIA”) request, is attached hereto as Exhibit 1.

(b) **September 16, 2012:** The date on which my website first contained detailed discussion of my decision to write a book about the FTC’s actions in a blog post entitled “The FTC is Suing Me . . .,” which is available at: <http://michaeljdaugherty.com/2012/09/16/the-ftc-is-suing-me/>.

It states in part:

We’ll never give in! Self-appointed savior of the world or not, the FTC is a rude houseguest, and we won’t make up a lie about our cooking just to get them out. That would

be giving them exactly what they want. Why validate such vile behavior from these occupiers?

So, what exactly does one do when big brother is hovering, knocking, poking, not playing nice, and won't go home? Speaking for myself, I shine a light on how "he" conducts himself and scream from the rooftop to alert the neighbors. Of course, I still mind my manners—go along hoping the growling dog won't attack or bite. I'll throw them all the treats they want! We've always conducted business in an honest, sincere manner, so there's nothing to hide. Despite our efforts to get the FTC to laugh and wag its tail, nothing seems to work. Sigh....

This is a LONG story so I am writing a book titled "The Devil Inside the Beltway." I don't want to write a book; I HAVE to write a book. There is way too much juicy stuff to cram into a sound bite or two-minute video. A book is a LOT of work. I started in April. Now that the cat is out, I have to finish ASAP, so I am flying to London next week to get it done. Then the editors dig in — developmental, copy, line, and all sorts of prep work prior to launch.

(c) **June 13, 2013:** To determine what the homepage of my website

looked like during the month before FTC staff's announcement of its

decision to recommend to the Commission an enforcement action

against LabMD, on April 23, 2014, I used an online program,

"Internet Archive: WayBack Machine," <https://archive.org/web/>, and

entered my website's homepage address,

<http://michaeljdaugherty.com/>, into the search bar. Exhibit 2 is a copy

of a screenshot of my website's homepage as it appeared on June 13,

2013. This may also be found at:

<https://web.archive.org/web/20130613215030/http://michaeljdaugherty.com/>. I believe this reflects what my homepage looked like during the approximately one-month period directly preceding FTC enforcement staff's decision to pursue an enforcement action against LabMD.

(d) **July 17, 2013:** The date on which I first posted the trailer to my book on YouTube. It is available at:

http://www.youtube.com/watch?v=fuNZbqXIV_M.

(e) **July 19, 2013:** The date on which the trailer to my book was first available on my website at:

<http://michaeljdaugherty.com/2013/07/19/the-devil-inside-the-beltway-book-trailer/>.

(f) **July 22, 2014:** The date on which FTC enforcement staff informed LabMD in an email to LabMD's then-General Counsel, Stephen Fusco, that they had recommended that the Commission issue a complaint against LabMD alleging that LabMD violated Section 5 of the Federal Trade Commission Act ("FTC Act").

(g) **August 28, 2014:** The date on which the FTC issued the administrative complaint against LabMD.

(h) **August 29, 2014:** The date on which the FTC publicly disseminated a disparaging blog post and press release about LabMD.

7. I understand that visits to my website's homepage <http://michaeljdaugherty.com/>, which appear in the "Page" column of the Google Reports, appear as follows: "/".

8. I understand that visits to my website by individuals using FTC computers are reflected in the "Service Provider" column of the Google Reports as "federal trade commission."

9. Exhibit 3, which is the Google Report for the time period of July 21, 2012, to April 23, 2014, shows, among other things, the total number of "Sessions" on which FTC employees viewed my website (485) and the number of FTC employees who are "New Users" (197). It also includes a graph that provides a broad overview of the frequency with which FTC employees visited my website over that period of time.

10. Exhibit 4, which is the Google Report for the time period of January 1, 2013, to January 1, 2014, among other things, includes a graph that provides a visual depiction of time periods when a particularly high number of FTC employees were visiting my website, as well as what specific pages these FTC employees were visiting.

11. Exhibit 5, which is the Google Report for the time period of January 1, 2012, to September 1, 2012, shows that no FTC employee visited my website before September 1, 2012. Ten days later FTC enforcement staff paralegal Matthew Smith obtained a copy of the Atlanta Business Chronicle article in which I criticized FTC enforcement staff.

12. Exhibit 6, which is the Google Report for the time period of September 1, 2012, to October 1, 2012, shows that a small number of FTC employees began visiting my website on September 5, 2012, and then a much larger number of FTC employees visited my website on September 17, 2012. It also shows that the vast majority of FTC employees who visited my website during this time period viewed my website's homepage and/or my September 16, 2012, blog, "The FTC is Suing Me . . ."

13. Exhibit 7, which is the Google Report for September 17, 2012, shows that on that date 73 individuals using FTC computers viewed my blog, "The FTC is Suing Me" I posted the blog viewed by the FTC the day before.

14. Exhibit 8, which is the Google Report for the time period of June 13, 2013, to July 21, 2013 (the day before LabMD learned of FTC staff's decision to recommend an enforcement action against LabMD, July 22, 2013), shows, among other things, that FTC employees were actively monitoring my website during this time period and viewed my website's homepage and other pages

that referred to my book and stated “The Devil Inside the Beltway: Coming Summer 2013.”

15. Exhibit 9, which is the Google Report for July 22, 2013, shows that on the same day that FTC enforcement staff informed LabMD of their intent to pursue an enforcement action, at least one FTC employee viewed my website’s “about” page, which discussed my book.

16. Exhibit 10, which is the Google Report for the time period of August 7, 2013, to August 27, 2013 (the day before the Commission voted to issue an administrative complaint against LabMD accusing the company of committing an “unfair” trade practice), shows that a total of 19 FTC “New Users” visited my website on 22 “Sessions.” It also shows that these FTC employees were viewing pages of my website that discussed my book, “The Devil Inside the Beltway,” which was then scheduled to be published later that summer.

17. Google Analytics does not provide information for me to determine whether FTC employees involved in the LabMD enforcement action used computers other than FTC computers or other mobile devices to visit my website during these critical time periods.

I declare under penalty of perjury that the foregoing is true and correct.

Executed April 30, 2014.

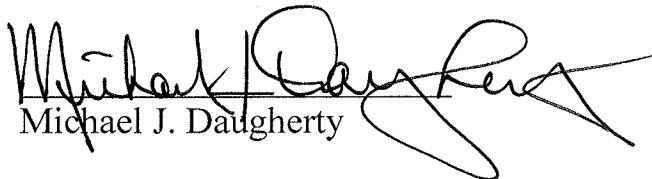

Michael J. Daugherty

EXHIBIT 1



User Name: Matthew Smith

Date and Time: Sep 10, 2012 16:13 EST

Job Number: 890368

Document(1)

1. Atlanta medical lab facing off against FTC

Client/matter: -None-



Atlanta medical lab facing off against FTC

Atlanta Business Chronicle

September 7, 2012 Friday

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Length: 989 words

Byline: Amy Wenk

Body

A small medical company based in Atlanta is fighting a federal investigation into its data security practices - a potentially damaging blow to its reputation, says its founder.

The Federal Trade Commission (FTC) on Aug. 29 filed a petition in federal court to investigate LabMD Inc. and its CEO, Michael Daugherty, to determine whether the company had adequate data security for its medical records.

The federal agency says it obtained a copy of a 1,718-page spreadsheet that contained sensitive health information for about 9,000 of LabMD's patients, including Social Security numbers, birth dates and health insurance policy numbers, according to the petition.

"There is no allegation that anybody has done anything wrong," said Leslie Rice Melman, assistant general counsel for litigation for the FTC. She said the FTC is trying to investigate LabMD but the company has been unwilling to provide oral testimony and other documents.

"In most cases, in the end, we are able to get compliance without seeking the aid of the district court," Melman said. "Citizens have an obligation to respond and cooperate in a lawful government investigation."

Melman said a court hearing is set for Sept. 19 in the U.S. District Court for the Northern District of Georgia.

Daugherty contends his company is being unreasonably persecuted by the FTC. He said he's already spent about \$500,000 fighting the investigation.

"We are guilty until proven innocent to these people," Daugherty said in a Sept. 5 interview with Atlanta Business Chronicle. "They are on a fishing expedition. We feel like they are beating up small business.

"There's no deception. There's not been a breach," he said.

Founded in 1996, LabMD performs medical testing services and specializes in tissue analysis for cancer. The company has about 35 employees and is headquartered at 2030 Powers Ferry Road.

Daugherty, a graduate of the University of Michigan, worked as a surgical sales rep before starting LabMD. He's served on the advisory board for the Private Bank of Buckhead for the past two years.

Atlanta medical lab facing off against FTC

The trouble started for LabMD in May 2008 when, Daugherty said, he received a phone call from Pennsylvania-based Tiversa Inc., saying the company had possession of a 1,718-page spreadsheet of health insurance billing information.

Tiversa specializes in providing security services for peer-to-peer networks, a component of the Internet that allows people to share digital content, such as music, movies and software. On its website, Tiversa says its technology can monitor more than 550 million users, issuing 1.8 billion searches a day.

Tiversa downloaded LabMD's spreadsheet in 2008 as part of a research project in collaboration with Dartmouth College, according to a 2009 report from the college. The research was backed with federal funds from the U.S. Department of Justice, the U.S. Department of Homeland Security and the National Science Foundation, among others.

Daugherty said Tiversa hounded LabMD to sign a service agreement to remedy any possible data security flaws in its network.

Daugherty said he refused to purchase any services from Tiversa during its several attempts to solicit business from LabMD via email in 2008.

In 2009, Daugherty said he was informed by his lawyer that Tiversa was going to hand over the downloaded spreadsheet to the federal government.

LabMD later sued Tiversa, accusing the company of stealing its property.

On Aug. 15, that lawsuit was dismissed due to a lack of personal jurisdiction, said Daugherty's general counsel, Stephen Fusco. LabMD currently is appealing that decision.

"This is a property theft case," Daugherty said. "[Tiversa] came in and affected our network."

The FTC began its investigation of LabMD in early 2010, requesting it send internal documents to be reviewed.

"We've always complied," Daugherty said. He said the company has six times submitted thousands of pages of documents to the FTC. He also has visited Washington, D.C., twice to speak with the FTC, he said. "We have nothing to hide."

According to Daugherty, when the FTC asked him to sign a consent decree, he refused. He said it would have required the business to undergo biannual audits for the next 20 years.

"That's where the road is lined with bombs," Daugherty said. "I won't let you assassinate my reputation."

In December 2011, the FTC issued formal demands to investigate LabMD.

The company subsequently filed a petition to reject the request to investigate, which was later overruled by the five-member commission appointed by the U.S. president that governs the FTC.

One commission member dissented.

"Specifically, I am concerned that Tiversa is more than an ordinary witness, informant or 'whistle-blower,'" wrote Commissioner J. Thomas Rosch in a statement on June 21, 2012. "It is a commercial entity that has a financial interest in intentionally exposing and capturing sensitive files on computer networks, and a business model of offering its services to help organizations protect

Atlanta medical lab facing off against FTC

against similar infiltrations ... In my view, while there appears to be nothing per se unlawful about this evidence, the commission should avoid even the appearance of bias or impropriety by not relying on such evidence or information in this investigation."

The **FTC** says its staff cannot make a proper recommendation without testimony from Daugherty and LabMD.

"This is completely routine," the **FTC**'s Melman said. "This is just how administrative agencies go about carrying out their mission of investigating whether there are unlawful practices."

Melman said it's unusual to have to file a petition in federal court to start an investigation. She said the last instance was about a year ago.

Daugherty said he won't give up his fight *against* the **FTC**, no matter the costs.

"It's cheaper than our reputation."

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Classification

Language: ENGLISH

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Subject: INVESTIGATIONS (93%); US FEDERAL GOVERNMENT (92%); LAW COURTS & TRIBUNALS (90%); CRIMINAL INVESTIGATIONS (90%); DATA SECURITY (90%); COMMERCE DEPARTMENTS (90%); INFORMATION SECURITY & PRIVACY (90%); WITNESSES (78%); **MEDICAL** RECORDS (78%); JUSTICE DEPARTMENTS (78%); HEALTH INSURANCE (78%); SPECIAL INVESTIGATIVE FORCES (78%); SMALL BUSINESS (78%); **MEDICAL** & DIAGNOSTIC LABORATORIES (78%); NATIONAL SECURITY (78%); RESEARCH & DEVELOPMENT (77%); PETITIONS (77%); US SOCIAL SECURITY (75%); SOCIAL SECURITY (75%); LAWYERS (73%); **MEDICAL** DIAGNOSTICS SCREENING & TESTING (73%); LAW ENFORCEMENT (73%); TESTIMONY (72%); INSURANCE POLICIES (70%); CORPORATE COUNSEL (69%); TEST LABORATORIES (68%); INTERNET & WWW (63%); COMPUTER NETWORKS (60%); COMPUTER SOFTWARE (60%)

Organization: FEDERAL TRADE COMMISSION (94%)

Geographic: ATLANTA, GA, USA (92%); GEORGIA, USA (92%); MICHIGAN, USA (79%); UNITED STATES (94%)

Load-Date: September 7, 2012


EXHIBIT 2

Go

MAY 13 2013
JUN 13 2013
OCT 13 2014


35 captures
20 Sep '12 - 5 Apr '14

http://michaeljdaugherty.com/



MICHAEL J DAUGHERTY

AUTHOR OF THE UPCOMING BOOK: THE DEVIL INSIDE THE BELTWAY



HomeBlogBooksVisual JournalMediaAboutContact



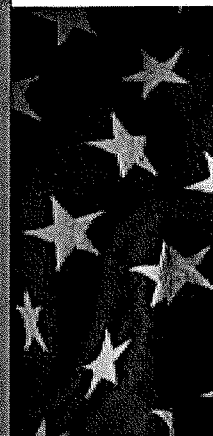
The Devil Inside the Beltway: Coming Summer 2013

Indiegogo Crowdfunding Campaign Launch

THU 18

PBS Media Shift Interview on Self-Publishing

THE DEVIL INSIDE THE BELTWAY



The Devil Inside the Beltway: The Shocking 'Expose' of the US Government's surveillance and overreach into cybersecurity, medicine, and small business.



UPDATES

Chatting with Chris Matthews (@hardball_chris) about his new book *Jack Kennedy: Elusive Hero*, as well as *The Devil Inside the Beltway*. I told him I want on his show so we can rumble

EXHIBIT 3

Network

Jul 1, 2012 - Apr 22, 2014

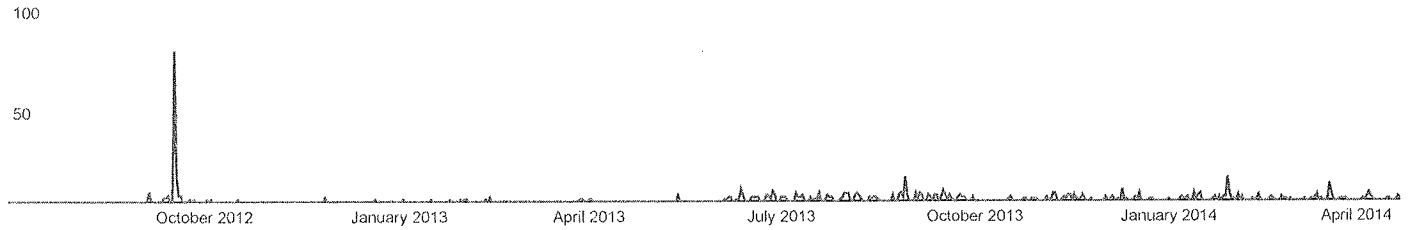
ALL » SERVICE PROVIDER: federal trade commission

All Sessions
4.12%

Explorer

Summary

Sessions



Service Provider	Acquisition			Behavior			Conversions		
	Sessions	% New Sessions	New Users	Bounce Rate	Pages / Session	Avg. Session Duration	Goal Conversion Rate	Goal Completions	Goal Value
	485 % of Total: 4.12% (11,758)	40.62% Site Avg: 67.35% (-39.69%)	197 % of Total: 2.49% (7,919)	46.60% Site Avg: 64.00% (-27.19%)	2.28 Site Avg: 2.00 (14.29%)	00:01:30 Site Avg: 00:02:09 (-30.29%)	0.00% Site Avg: 0.00% (0.00%)	0 % of Total: 0.00% (0)	\$0.00 % of Total: 0.00% (\$0.00)
1. federal trade commission	485(100.00%)	40.62%	197(100.00%)	46.60%	2.28	00:01:30	0.00%	0 (0.00%)	\$0.00 (0.00%)

Rows 1 - 1 of 1

EXHIBIT 4

Network

Jan 1, 2013 - Jan 1, 2014

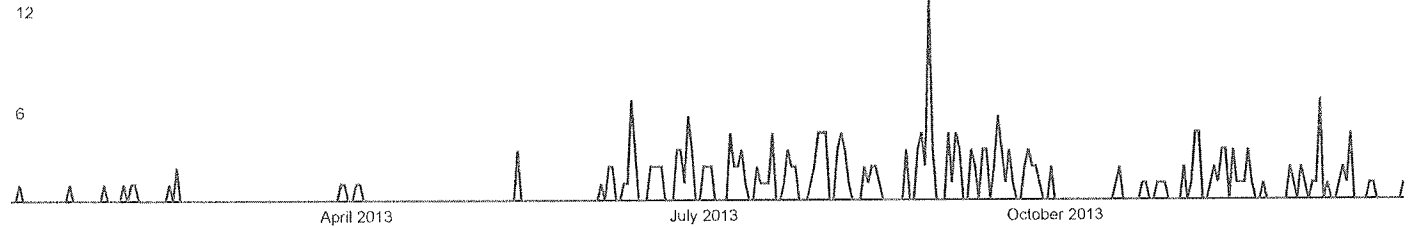
ALL » SERVICE PROVIDER: federal trade commission

All Sessions
4.26%

Explorer

Summary

Sessions



Service Provider	Page	Acquisition		Behavior		Conversions				
		Sessions	% New Sessions	New Users	Bounce Rate	Pages / Session	Avg. Session Duration	Goal Conversion Rate	Goal Completions	Goal Value
		267 % of Total: 4.26% (6,265)	29.59% Site Avg: 66.54% (-55.54%)	79 % of Total: 1.89% (4,169)	33.71% Site Avg: 62.71% (-46.25%)	2.62 Site Avg: 2.14 (22.26%)	00:02:00 Site Avg: 00:02:26 (-17.84%)	0.00% Site Avg: 0.00% (0.00%)	0 % of Total: 0.00% (0)	\$0.00 % of Total: 0.00% (\$0.00)
1. federal trade commission	/about/	103 (38.58%)	23.30%	24 (30.38%)	15.53%	1.24	00:01:27	0.00%	0 (0.00%)	\$0.00 (0.00%)
2. federal trade commission	/	54 (20.22%)	46.30%	25 (31.65%)	33.33%	2.57	00:02:11	0.00%	0 (0.00%)	\$0.00 (0.00%)
3. federal trade commission	/blog-2/	37 (13.86%)	13.51%	5 (6.33%)	48.65%	3.49	00:00:35	0.00%	0 (0.00%)	\$0.00 (0.00%)
4. federal trade commission	/author/mdort/	19 (7.12%)	21.05%	4 (5.06%)	52.63%	1.32	00:05:42	0.00%	0 (0.00%)	\$0.00 (0.00%)
5. federal trade commission	/publishers-weekly-feature/	13 (4.87%)	15.38%	2 (2.53%)	38.46%	1.85	00:02:29	0.00%	0 (0.00%)	\$0.00 (0.00%)
6. federal trade commission	/2013/06/11/what-is-really-going-on-when-a-government-agency-comes-knocking-on-your-door-part-2/	6 (2.25%)	0.00%	0 (0.00%)	16.67%	3.00	00:03:24	0.00%	0 (0.00%)	\$0.00 (0.00%)
7. federal trade commission	/2012/09/16/the-ftc-is-suing-me/	5 (1.87%)	100.00%	5 (6.33%)	80.00%	2.00	00:00:05	0.00%	0 (0.00%)	\$0.00 (0.00%)
8. federal trade commission	/2012/10/25/breaking-news/	5 (1.87%)	100.00%	5 (6.33%)	40.00%	1.40	00:07:06	0.00%	0 (0.00%)	\$0.00 (0.00%)
9. federal trade commission	/indiegogo-crowdfund-ngcampaign/	5 (1.87%)	40.00%	2 (2.53%)	60.00%	3.40	00:07:58	0.00%	0 (0.00%)	\$0.00 (0.00%)

10.	federal trade commission	/2013/12/16/michael-i interviewed -edgington-post/	3 (1.12%)	0.00%	0 (0.00%)	100.00%	1.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)
11.	federal trade commission	/2012/09/07/breaking-news-michael-j-daugherty-interviewed-in-the-atlanta-business-chronicle/	2 (0.75%)	50.00%	1 (1.27%)	100.00%	1.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)
12.	federal trade commission	/2013/07/19/the-devil-inside-the-beltway-book-trailer/	2 (0.75%)	100.00%	2 (2.53%)	50.00%	4.00	00:00:50	0.00%	0 (0.00%)	\$0.00 (0.00%)
13.	federal trade commission	/data-security-case-discussion/	2 (0.75%)	50.00%	1 (1.27%)	50.00%	2.00	00:01:28	0.00%	0 (0.00%)	\$0.00 (0.00%)
14.	federal trade commission	/the-devil-inside-the-beltway-coming-summer-2013-2/	2 (0.75%)	100.00%	2 (2.53%)	50.00%	21.00	00:00:08	0.00%	0 (0.00%)	\$0.00 (0.00%)
15.	federal trade commission	/2013/07/03/snowden-seems-to-have-obama-snowden-informed-until-the-dictators-are-done-brain-draining-snowden/	1 (0.37%)	0.00%	0 (0.00%)	100.00%	3.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)
16.	federal trade commission	/2013/09/16/washington-journal-talks-michael-daugherty-ftc-fight/	1 (0.37%)	0.00%	0 (0.00%)	0.00%	3.00	00:00:24	0.00%	0 (0.00%)	\$0.00 (0.00%)
17.	federal trade commission	/2013/11/04/ben-ferguson-interviews-michael/	1 (0.37%)	0.00%	0 (0.00%)	100.00%	1.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)
18.	federal trade commission	/2013/11/07/labmd-slams-oppressive-ftc-subpoenas-data-breach-row/	1 (0.37%)	0.00%	0 (0.00%)	100.00%	2.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)
19.	federal trade commission	/2013/12/06/ftc-keynote-music-teachers-strikes-chord/	1 (0.37%)	100.00%	1 (1.27%)	100.00%	5.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)
20.	federal trade commission	/bea-2013-podcast/	1 (0.37%)	0.00%	0 (0.00%)	0.00%	1.00	00:01:24	0.00%	0 (0.00%)	\$0.00 (0.00%)
21.	federal trade commission	/blog/	1 (0.37%)	0.00%	0 (0.00%)	0.00%	3.00	00:00:49	0.00%	0 (0.00%)	\$0.00 (0.00%)
22.	federal trade commission	/pbs-media-shift-interview-on-self-publishing-2/	1 (0.37%)	0.00%	0 (0.00%)	0.00%	6.00	00:00:39	0.00%	0 (0.00%)	\$0.00 (0.00%)

EXHIBIT 5

Network

Jan 1, 2012 - Sep 1, 2012

ALL » SERVICE PROVIDER: federal trade commission

All Sessions
0.00%

Explorer

Summary

● Sessions

1

0

February 2012 March 2012 April 2012 May 2012 June 2012 July 2012 August 2012

Service Provider	Page	Acquisition			Behavior			Conversions		
		Sessions	% New Sessions	New Users	Bounce Rate	Pages / Session	Avg. Session Duration	Goal Conversion Rate	Goal Completions	Goal Value
		0	0.00%	0	0.00%	0.00	00:00:00	0.00%	0	\$0.00
		% of Total: 0.00% (135)	Site Avg: 48.89% (-100.00%)	% of Total: 0.00% (66)	Site Avg: 40.00% (-100.00%)	Site Avg: 3.12 (-100.00%)	Site Avg: 00:04:25 (-100.00%)	Site Avg: 0.00% (0.00%)	% of Total: 0.00% (0)	% of Total: 0.00% (\$0.00)

There is no data for this view.

Rows 1 - 0 of 0

EXHIBIT 6

Network

Sep 1, 2012 - Oct 1, 2012

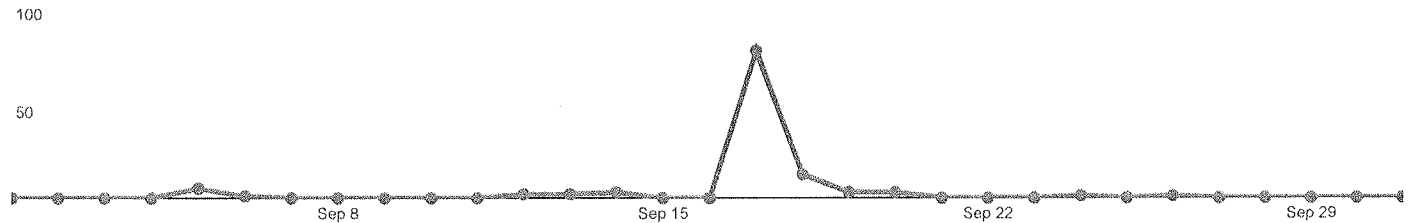
ALL » SERVICE PROVIDER: federal trade commission

All Sessions
9.57%

Explorer

Summary

Sessions



Service Provider	Page	Acquisition			Behavior		Conversions			
		Sessions	% New Sessions	New Users	Bounce Rate	Pages / Session	Avg. Session Duration	Goal Conversion Rate	Goal Completions	Goal Value
		108 % of Total: 9.57% (1,128)	86.11% Site Avg: 59.84% (43.90%)	93 % of Total: 13.78% (675)	66.67% Site Avg: 59.66% (11.74%)	1.84 Site Avg: 2.00 (-7.95%)	00:00:55 Site Avg: 00:02:09 (-57.14%)	0.00% Site Avg: 0.00% (0.00%)	0 % of Total: 0.00% (0)	\$0.00 % of Total: 0.00% (\$0.00)
1. federal trade commission	/2012/09/16/the-ftc-is-suing-me/	89 (82.41%)	97.75%	87 (93.55%)	77.53%	1.09	00:00:53	0.00%	0 (0.00%)	\$0.00 (0.00%)
2. federal trade commission	/	12 (11.11%)	41.67%	5 (5.38%)	16.67%	2.58	00:01:04	0.00%	0 (0.00%)	\$0.00 (0.00%)
3. federal trade commission	/about/	3 (2.78%)	0.00%	0 (0.00%)	0.00%	4.33	00:00:57	0.00%	0 (0.00%)	\$0.00 (0.00%)
4. federal trade commission	/author/mdort/	2 (1.85%)	50.00%	1 (1.08%)	50.00%	2.50	00:00:39	0.00%	0 (0.00%)	\$0.00 (0.00%)
5. federal trade commission	/2012/09/06/the-us-governments-offensive-cyber-defense/	1 (0.93%)	0.00%	0 (0.00%)	0.00%	4.00	00:02:49	0.00%	0 (0.00%)	\$0.00 (0.00%)
6. federal trade commission	/book-a-speech/	1 (0.93%)	0.00%	0 (0.00%)	0.00%	2.00	00:00:25	0.00%	0 (0.00%)	\$0.00 (0.00%)

Rows 1 - 6 of 6

EXHIBIT 7

Network

Sep 17, 2012 - Sep 17, 2012

ALL » SERVICE PROVIDER: federal trade commission

All Sessions
44.38%

Explorer

Summary

Sessions

100

50

2000 2010 2020 2030 2040 2050

Service Provider	Page	Acquisition			Behavior			Conversions		
		Sessions	% New Sessions	New Users	Bounce Rate	Pages / Session	Avg. Session Duration	Goal Conversion Rate	Goal Completions	Goal Value
		75	100.00%	75	78.67%	1.43	00:00:40	0.00%	0	\$0.00
		% of Total: 44.38% (169)	Site Avg: 83.43% (19.86%)	% of Total: 53.19% (141)	Site Avg: 72.78% (8.09%)	Site Avg: 1.47 (-3.17%)	Site Avg: 00:01:03 (-36.08%)	Site Avg: 0.00% (0.00%)	% of Total: 0.00% (0)	% of Total: 0.00% (\$0.00)
1. federal trade commission	/2012/09/16/the-ftc-is-suing-me/	73 (97.33%)	100.00%	73 (97.33%)	79.45%	1.03	00:00:41	0.00%	0 (0.00%)	\$0.00 (0.00%)
2. federal trade commission	/	2 (2.67%)	100.00%	2 (2.67%)	50.00%	4.50	00:00:03	0.00%	0 (0.00%)	\$0.00 (0.00%)

Rows 1 - 2 of 2

EXHIBIT 8

7.	federal trade commission	a-snowed-i nfor-nowun til-the-dicta tors-are-do ne-brain-dr aining-sno wden/	1 (1.89%)	0.00%	0 (0.00%)	100.00%	3.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)
8.	federal trade commission	/bea-2013- podcast/	1 (1.89%)	0.00%	0 (0.00%)	0.00%	1.00	00:01:24	0.00%	0 (0.00%)	\$0.00 (0.00%)
9.	federal trade commission	/pbs-media -shift-interv iew-on-self -publishing -2/	1 (1.89%)	0.00%	0 (0.00%)	0.00%	5.00	00:00:39	0.00%	0 (0.00%)	\$0.00 (0.00%)
10.	federal trade commission	/the-devil-i nside-the-b eltway-com ing-summe r-2013-2/	1 (1.89%)	100.00%	1 (14.29%)	100.00%	16.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)

Rows 1 - 10 of 10

EXHIBIT 9

Network

Jul 22, 2013 - Jul 22, 2013

ALL » SERVICE PROVIDER: federal trade commission

All Sessions
2.94%

Explorer

Summary

Sessions

1

0.5

2000

2010

2020

2030

2040

2050

Service Provider	Page	Acquisition			Behavior		Conversions			
		Sessions	% New Sessions	New Users	Bounce Rate	Pages / Session	Avg. Session Duration	Goal Conversion Rate	Goal Completions	Goal Value
		1	0.00%	0	0.00%	9.00	00:10:33	0.00%	0	\$0.00
		% of Total: 2.94% (34)	Site Avg: 61.76% (-100.00%)	% of Total: 0.00% (21)	Site Avg: 70.59% (-100.00%)	Site Avg: 1.85 (385.71%)	Site Avg: 00:02:30 (321.50%)	Site Avg: 0.00% (0.00%)	% of Total: 0.00% (0)	% of Total: 0.00% (\$0.00)
1. federal trade commission	/about/	1(100.00%)	0.00%	0 (0.00%)	0.00%	1.00	00:10:33	0.00%	0 (0.00%)	\$0.00 (0.00%)

Rows 1 - 1 of 1

EXHIBIT 10

Network

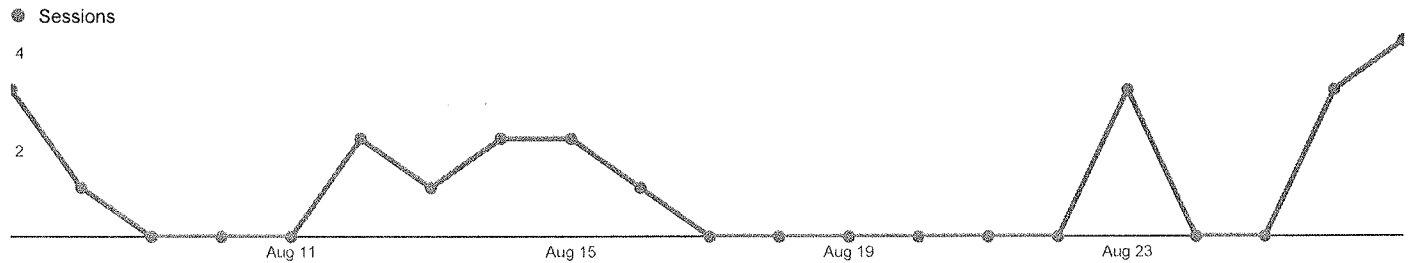
Aug 7, 2013 - Aug 27, 2013

ALL » SERVICE PROVIDER: federal trade commission

All Sessions
7.55%

Explorer

Summary



Service Provider	Page	Acquisition			Behavior			Conversions		
		Sessions	% New Sessions	New Users	Bounce Rate	Pages / Session	Avg. Session Duration	Goal Conversion Rate	Goal Completions	Goal Value
		22	86.36%	19	9.09%	4.27	00:04:56	0.00%	0	\$0.00
		% of Total: 7.59% (290)	Site Avg: 65.17% (32.52%)	% of Total: 10.05% (189)	Site Avg: 53.10% (-82.88%)	Site Avg: 2.72 (57.05%)	Site Avg: 00:04:32 (9.09%)	Site Avg: 0.00% (0.00%)	% of Total: 0.00% (0)	% of Total: 0.00% (\$0.00)
1. federal trade commission	/about/	13 (59.09%)	92.31%	12 (63.16%)	0.00%	1.23	00:01:42	0.00%	0 (0.00%)	\$0.00 (0.00%)
2. federal trade commission	/	3 (13.64%)	100.00%	3 (15.79%)	33.33%	8.00	00:03:25	0.00%	0 (0.00%)	\$0.00 (0.00%)
3. federal trade commission	/author/mdort /	2 (9.09%)	50.00%	1 (5.26%)	0.00%	1.50	00:27:07	0.00%	0 (0.00%)	\$0.00 (0.00%)
4. federal trade commission	/2012/10/25/breaking-news /	1 (4.55%)	100.00%	1 (5.26%)	0.00%	1.00	00:05:48	0.00%	0 (0.00%)	\$0.00 (0.00%)
5. federal trade commission	/blog-2/	1 (4.55%)	0.00%	0 (0.00%)	100.00%	11.00	00:00:00	0.00%	0 (0.00%)	\$0.00 (0.00%)
6. federal trade commission	/indiegogocrowdfundingcampaign/	1 (4.55%)	100.00%	1 (5.26%)	0.00%	5.00	00:16:05	0.00%	0 (0.00%)	\$0.00 (0.00%)
7. federal trade commission	/the-devil-inside-the-beltway-coming-sun-mer-2013-2 /	1 (4.55%)	100.00%	1 (5.26%)	0.00%	7.00	00:00:15	0.00%	0 (0.00%)	\$0.00 (0.00%)

Rows 1 - 7 of 7

CERTIFICATE OF SERVICE

This is to certify that, on May 1, 2014, I electronically filed the foregoing
**SECOND SUPPLEMENTAL DECLARATION OF MICHAEL J.
DAUGHERTY** with the Clerk of Court using the CM/ECF system as follows:

Lauren E. Fascett, Esq.
Perham Gorji, Esq.
Trial Attorneys
U.S. Department of Justice
Civil Division
Consumer Protection Branch
450 5th Street, N.W.
Washington, D.C. 20530
Lauren.Fascett@usdoj.gov
Perham.Gorji@usdoj.gov

This 1st day of May, 2014.

/s/ Burleigh L. Singleton
Counsel for Plaintiff